

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

ALICE MEJIA, et al.,
Plaintiff(s),

v.
WESTGATE LAS VEGAS RESORTS, LLC,
Defendant(s).

Case No.: 2:18-cv-02128-GMN-NJK

Order

[Docket No. 28]

Pending before the Court is attorney Christopher Burk's motion to withdraw as counsel foriffs. Docket No. 28. Mr. Burk filed a supplement. Docket No. 38.¹ The Court previously hearing on the matter, but now finds one to be unnecessary and the hearing is **VACATED**. Local Rule 78-1. For the reasons discussed below, the motion to withdraw is hereby **DENIED**.

I. STANDARDS

As a fundamental premise, counsel is under an obligation to see the work through to completion when he agrees to undertake the representation of a client. *Streetman v. Lynaugh*, 674 F. Supp. 229, 234 (E.D. Tex. 1987). As such, leave of Court is required for an attorney to withdraw from a case. Local Rule IA 11-6(b). Whether to allow withdrawal is an issue entrusted to the

¹ Expecting that supplement may include some privileged information, the Court ordered that it be filed under seal. *See* Docket No. 29. The vast majority of that information is not privileged, however, and is already known to opposing counsel. *See* Docket No. 34. Accordingly, some of the facts provided in that filing will be discussed in this order, which will be issued on the public docket.

1 sound discretion of the Court. *LaGrand v. Stewart*, 133 F.3d 1253, 1269 (9th Cir. 1998). District
2 courts are given “considerable deference” in making that decision. *Whiting v. Lacara*, 187 F.3d
3 317, 320 (2d Cir. 1999) (collecting cases).

4 The applicable rules generally permit an attorney to withdraw if continued representation
5 of the client will result in an “unreasonable financial burden on the lawyer.” Nev. R. Prof. Conduct
6 1.16(b)(6). The fact that a case is not as profitable as counsel had hoped and will involve
7 substantial expense does not constitute an “unreasonable financial burden” for which withdrawal
8 is permitted. *McDaniel v. Daiichi Sankyo, Inc.*, 343 F. Supp. 3d 427, 432 (D.N.J. 2018) (applying
9 analogous New Jersey rule). Moreover, withdrawal of an attorney may be denied where it will
10 delay the proceedings. Local Rule IA 11-6(e).

11 **II. ANALYSIS**

12 Mr. Burk’s motion is predicated on his assertion that continuing to represent Plaintiffs
13 would impose an unreasonable financial burden on him. *See* Mot. at 3. The Court disagrees. This
14 case arises out of a timeshare purchase in the amount of \$12,659.21. *See* Compl. at ¶ 19. Plaintiffs
15 paid \$4,000 to a non-party company assisting purchasers in obtaining relief from timeshare
16 contracts, moneys that included payment for Mr. Burk to litigate this case on Plaintiffs’ behalf.
17 *See* Suppl. at ¶¶ 1-3. Hence, this is not a situation in which clients have stopped paying their
18 attorney and, to the contrary, Plaintiffs already prepaid for Mr. Burk’s representation. Mr. Burk
19 argues that moneys he had been receiving from the non-party company have dried up because it
20 has gone bankrupt. *See id.* at ¶¶ 16-18. Turning off that spigot has left Mr. Burk without sufficient
21 revenue and his own firm filed for bankruptcy. *See id.* at ¶¶ 21, 23; *see also* Docket No. 32. The
22 source of Mr. Burk’s financial hardship is the business failure of his firm and the non-party
23 company, events orthogonal to Plaintiffs. While the failure of Mr. Burk’s business endeavor
24 resulted in financial strain, he has not shown that requiring him to continue to represent Plaintiffs
25 in this case based on their full payment already made could be considered an “unreasonable”
26 financial burden—he must simply provide the services for which Plaintiffs have already paid.

27 Moreover, allowing withdrawal at this stage will result in delay. Mr. Burk has agreed to
28 continue representing Plaintiffs through the rest of discovery, which will be completed within a

1 few days. *See* Suppl. at ¶ 23. Dispositive motions are due in a few weeks. *See* Docket No. 19.
2 Allowing Mr. Burk to withdraw at this procedural posture would inevitably delay the filing and
3 briefing of motions for summary judgment.

4 **III. CONCLUSION**

5 Accordingly, for the reasons discussed above, Mr. Burk's motion to withdraw as counsel
6 for Plaintiffs is **DENIED**. Mr. Burk is advised that he must diligently pursue this case on
7 Plaintiffs' behalf. The Clerk's Office is **INSTRUCTED** to mail a copy of this order on Plaintiffs
8 at their address at Docket No. 37.

9 IT IS SO ORDERED.

10 Dated: June 17, 2019

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12 Nancy J. Koppe
13 United States Magistrate Judge

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